

### **REMARKS**

Claims 1, 2, 4-31, 33-36, and 38-40 are now pending in the application. Claim 32 has been cancelled by this Amendment. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. §102 AND §103**

Claims 1, 2, 4-22, 26, 27, 32, 33, 35, 36 and 40 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Moulin, French Pat. No. FR 2 734 709). Claims 23, 28-31, and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moulin, (French Pat. No. FR 2 734 709 A1). These rejections are respectfully traversed.

Applicant would like to thank the Examiner for the interview granted with Applicant's representative on April 4, 2006. During the interview, the rejected independent claims were discussed, including independent Claims 1, 13, 23, 32, and 40. During the interview, the amendments presented herein were discussed with the Examiner and an agreement was reached that the claims were allowable in light of the cited art. Applicant requests that if the indication of allowable subject matter in the various pending independent claims is not maintained by the Examiner, that the Examiner contact Applicant's representative noted below before mailing any further office actions.

Initially independent Claim 32 has been cancelled, thereby rendering the rejection thereto moot.

Independent Claim 1 has been amended to recite “a femoral component . . . a tibial component having a monolithic tibial tray defining a tibial bearing surface and a tibial bone engaging surface; only a monolithic bearing member positioned between the femoral component and the tibial component”. As discussed with the Examiner, Moulin does not teach only a monolithic bearing member positioned between the femoral component and the tibial component. Rather, Moulin requires at least the component 2 operable to contact bone, a shock absorbing layer 4, and an intermediate plate 5. Even if the slide 3 can be removed, there is not a monolithic bearing member positioned between the femoral component and the tibial component. As agreed by the Examiner, independent Claim 1 should now be in condition for allowance, as are each of the claims that depend directly or indirectly therefrom.

Independent Claim 13 has been amended to recite “a femoral component . . . a tibial component . . . only a monolithic bearing member positioned between the femoral component and the tibial component . . . wherein said bearing member is able to translate in at least three of an anterior direction, a posterior direction, a medial direction, a lateral direction, and a rotational direction, relative to the tibial component.” Again, Moulin does not describe a bearing member that is able to translate in at least three directions as recited in independent Claim 13. Further, this was discussed with the Examiner and the Examiner agreed that Moulin does not teach or fairly suggest such a system. Therefore, independent Claim 13, and each of the claims that depend directly or indirectly therefrom, are in condition for allowance.

Independent Claim 23 has been amended to recite “attaching a tibial prosthetic component corresponding to the resected end portion of the tibia, the tibial prosthetic

component having a monolithic tibial tray having a first surface to contact to the tibia and the second surface to contact a bearing member; attaching a femoral prosthetic component . . . installing only the bearing member between the tibial prosthetic component and the femoral prosthetic component". As discussed above, and with the Examiner, Moulin does not disclose or fairly suggest installing only a bearing member between a tibial prosthetic component and a femoral prosthetic component. Therefore, Moulin does not teach or fairly suggest a method of installing only a bearing member as recited in independent Claim 23.

Finally, independent Claim 40 has been amended to recite "a femoral component . . . a monolithic tibial component . . . only a monolithic bearing member . . . positioned between the femoral component and the tibial component." As discussed above, such a prosthesis is not taught or fairly suggested by Moulin. Therefore, independent Claim 40 is also in condition for allowance.

As discussed with the Examiner, each of the claims are neither taught nor fairly suggested by the cited art, therefore, Applicant submits that each of the presently pending claims are in condition for allowance and requests that the Examiner allow each of the presently pending claims and pass the application to issuance at the Examiner's earliest convenience.

#### **ALLOWABLE SUBJECT MATTER**

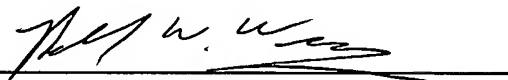
Applicant thanks the Examiner for the indication of the allowability of Claims 24, 25, 38 and 39.

## CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: April 19, 2006

By:   
Richard W. Warner  
Reg. No. 38,043

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

SJF/RWW/MLT